

REPRESENTATIVE FOR PETITIONER:
James W. Beatty, LANDMAN & BEATTY
Stephen M. Terrell, LANDMAN & BEATTY

REPRESENTATIVES FOR RESPONDENT:
Steve Carter, ATTORNEY GENERAL OF INDIANA
Robert B. Wentz, DEPUTY ATTORNEY GENERAL

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

REGENCY CANTERBURY, LP,)	Petition Nos.: See Attached
)	
Petitioner,)	County: Allen
)	
v.)	Township: St. Joseph
)	
DEPARTMENT OF LOCAL)	Parcel Nos.: See Attached
GOVERNMENT FINANCE,)	
)	Assessment Year: 2000
Respondent.)	
)	

On Remand from the Indiana Tax Court
Cause No. 49T10-0111-TA-97

REFERAL TO ST. JOSEPH TOWNSHIP ASSESSOR

The Board having reviewed the decision of the Tax Court in the above matter dated December 5, 2003 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the St. Joseph Township Assessor to make another assessment consistent with the Tax Court decision, for the following reasons.

Facts and Procedural History

1. The local assessing officials valued the subject property from the General Commercial Residential (GCR) Schedule – apartment model and graded them a “C+1” for the 2000 assessment year. Canterbury appealed its assessments with the Allen County Property Tax Assessment Board of Appeals (PTABOA). The PTABOA denied Canterbury’s request.
2. Canterbury then appealed its assessment to the State Board of Tax Commissioners, alleging that the base value of its building should have been adjusted to reflect a variation from the GCR model and that its building should have been graded a “C.”
3. The Board issued a Final Determination on October 12, 2001, adjusting the base value of the buildings to reflect the variation from the GCR model. The Board denied Canterbury’s request for a grade reduction.
4. On November 21, 2001, Canterbury initiated an original tax appeal. On September 9, 2002, the Tax Court heard the parties’ oral arguments. The sole issue is whether the Board erred when it failed to reduce the grade.

Discussion of Remanded Issue

5. The Board concluded, in its final determination, that it did not need to reduce Canterbury’s grade “because [] *Clark v. State Bd. of Tax Comm’rs*, 742 N.E.2d 46 mandated [the] use of the unit-in-place tables for a base cost adjustment instead of a grade adjustment.” The Tax Court held this interpretation was incorrect.
6. The Tax Court held that where an improvement deviates from the model, “if the unit-in-place tables are used [which is the preferred method], the missing items cannot [also] be the basis for the lowering of the subject units’ grade[.]” *Clark*, 742 N.E.2d at 49. Thus

when an improvement deviates from the model, grade adjustments are inappropriate when base rate adjustments can be made.

7. In this case, however, Canterbury seeks a grade reduction separate from the base rate issue that the Board granted an adjustment for. The Tax Court held that the Board erred in failing to “consider” Canterbury’s evidence with regard to the separate issue of grade.
8. The Tax Court reversed the decision of the Board and Remanded this case to the Board and ordered the Board to instruct the local assessing officials to consider Canterbury’s request for a grade reduction.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the St. Joseph Township Assessor to make another assessment consistent with the Tax Court decision, this ____ day of _____, 2004.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.

Attachment

Petition Nos.: 02-072-00-1-4-00067R
02-072-00-1-4-00069R
02-072-00-1-4-00071R
02-072-00-1-4-00072R
02-072-00-1-4-00073R
02-072-00-1-4-00074R
02-072-00-1-4-00075R
02-072-00-1-4-00076R
02-072-00-1-4-00077R
02-072-00-1-4-00078R

Parcel Nos.: 7500190001
7500190006
7500190013
7500190014
7500190018
7500190021
7536210004
7536210006
7536210014
7536210018